



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 28, 2014

By Email and Hand

The Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street, Chambers 2240
New York, New York 10007

**Re: United States v. Sulaiman Abu Ghayth, a/k/a "Salman Abu Ghayth"
S14 98 Cr. 1023 (LAK)**

Dear Judge Kaplan:

The Government writes in response to the defendant's motion of February 26, 2014 ("Motion"), which seeks, among other things, a trial adjournment. The Motion is based on the assertion that the proof against the defendant may be undermined by the detention at Guantanamo Bay of a person whose name is, in part, similar to the defendant's name. The detainee is Abdul-Rahman Abdo Abulghaith Suleiman ("Detainee").

But this partial verbal similarity in the names of the defendant and the Detainee is wholly immaterial. The core of the Government's case is a cooperating witness who interacted with the defendant and videos that depict the defendant. The cooperating witness identified a photograph of the defendant as the person he (the cooperating witness) was dealing with in Afghanistan. And the defendant has already stipulated that the person depicted in the videos is him. Partial linguistic similarities between the names of the defendant and the Detainee undermine neither the cooperator's visual identification of the defendant, nor the defendant's concession that he is the person on the videos.

The Motion also suggests that the name listed on the "brevity cards" al Qaeda used in Afghanistan, *see generally* Gov't Motion to Offer the Testimony of a Witness via CCTV, filed on Dec. 21, 2013, at 14-15 (describing these cards), may refer not to the defendant, but rather to the Detainee.

But this assertion requires, at a bare minimum, that the Detainee was known in Afghanistan as "Suleiman Abu Ghayth" or some close variant thereof.

The Detainee stated that he was known in Afghanistan by two names: (1) "Noureddin" and (2) "Mushin" or "Mushin al-Taaiz." (Other Guantanamo detainees have identified the

Detainee by a variety of other names, none of which is Sulaiman Abu Ghayth: “Mushin al Taezy,” “Abu Amer,” “Abdul Rahman Balghaith,” “Mushin al-Taizi,” “Suleiman,” “Abu Layth al Taizi,” and “Abu Sa'ad.”).

The Government has notified the defense of these facts. In addition, the Government has provided the defense with materials that make these points, all of which have long been publicly available, indeed on the internet.

The Government has no discovery obligations in this area because, as set out above, the Detainee is not relevant to this case. We provided these materials as a courtesy and in order to minimize confusion and to maximize fairness at trial. The Government has complied with its discovery obligations.

To the extent the defense still wishes to pursue its Motion, the Government submits that for the reasons set forth above, it should be denied.

Respectfully submitted,

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